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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/987,762	11/15/2001	Andrew Baker	53394.000517	7166

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EXAMINER

WEBB, JAMISUE A

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 04/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

N.K.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/987,762		BAKER, ANDREW	
	<b>Examiner</b>		<b>Art Unit</b>	
	Jamisue A. Webb		3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-87 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,9-14,30-59 and 67-72 is/are rejected.
- 7) ☒ Claim(s) 2-8,15-29,60-68 and 73-87 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____   |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>5</u> . | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Information Disclosure Statement*

1. The information disclosure statement filed 4/16/02 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

### *Specification*

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because it contains the phrase "as disclosed".

Correction is required. See MPEP § 608.01(b).

4. The specification is objected to as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Independent Claim 30 claims the limitation "a foam fluid handling layer comprising aliphatic isocyanate". This limitation is not supported by the specification. The specification discloses

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foam material that is formed from or made from an aliphatic isocyanate, therefore the foam being aliphatic isocyanate based, but the specification does not disclose that the foam contains isocyanate. Isocyanate is a starting material used to make the foam in order for it to have a non-yellowing property. Isocyanate is not an end product of the foam, therefore the foam (which is the end product) does not contain the isocyanate.

### *Claim Objections*

5. Claims 8, 37 and 66 are objected to because of the following informalities: the claims use the phrase "at least one additive selected from the group consisting of surfactants, fillers, and additives and combinations thereof", the wording of this phrase is redundant, the additive can be an additive. Does this mean that the additive can be selected from something that is not an additive? Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 30-58 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Independent Claim 30 claims the limitation "a foam fluid handling layer comprising aliphatic isocyanate". This limitation is not supported by the

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specification. The specification discloses foam material that is formed from or made from an aliphatic isocyanate, therefore the foam being aliphatic isocyanate based, but the specification does not disclose that the foam contains isocyanate. Isocyanate is a starting material used to make the foam in order for it to have a non-yellowing property. Isocyanate is not an end product of the foam, therefore the foam (which is the end product) does not contain the isocyanate.

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 9, 38, and 67 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

10. Claims 9, 38 and 67 recite the limitation "the additive" in line 1. There is insufficient antecedent basis for this limitation in the claims. Claims 8, 37 and 66 recite two additives, so it is unclear which one this is.

### *Claim Rejections - 35 USC § 102*

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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12. Claims 1, 10-14, 59, and 68-72 are rejected under 35 U.S.C. 102(e) as being anticipated by Whitmore et al. (6,417,425).

13. With respect to Claims 1, 10-14, 59 and 68-72: Whitmore discloses the use of an absorbent article such as a diaper with a topsheet, acquisition layer, core and backsheet (column 15, lines 53-58). Whitmore discloses numerous examples of absorbent articles with a 3<sup>rd</sup> insult Rewet of less than 25 grams and a 3<sup>rd</sup> insult Strikethrough of less than 35 seconds (see Column 6, Table 6, examples 18-20 and Commercial Diaper B).

#### ***Allowable Subject Matter***

14. Claims 2-8, 15-29, 60-66 and 73-87 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

15. Claims 9, 38 and 67 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wilson (5,840,780 and 5,719,201) and Blair (5,817,703) disclose the use of isocyanate based polymer foams, Beihoffer et al. (6,140,550) and Kiamil et al. (5,164,421) disclose the use of polyurethane foams, and Chmielewski (6,545,195) discloses the use of polyurethane and melamine-formaldehyde foams.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (703) 308-8579. The examiner can normally be reached on M-F (7:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703)308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

jaw  
April 19, 2003

  
WEILUN LO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700